

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X
IN RE TERRORIST ATTACKS ON SEPTEMBER 11, 2001

03 MDL 1570 (RCC)
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THIS DOCUMENT RELATES TO:

***THOMAS E. BURNETT, SR., ET AL. VS. AL BARAKA
INVESTMENT AND DEVELOPMENT CORP., ET AL.
03 CV 9849 (RCC); 03 CV 5738 (RCC)***

AFFIDAVIT OF DAVID K. DRAPER

State of New York)
).ss.:
County of New York)

David K. Draper, being sworn, states:

1. I am a banking consultant to Motley Rice, LLC, counsel for Plaintiffs in *Burnett vs. Al Baraka Banking and Investment Corp., et al.* I also serve as a Managing Director of Hemisphere Capital Partners, LLC, a Merchant Banking Firm located in New York City. My background includes serving as a Vice President of International Commercial Lending at the Fuji Bank, Ltd. And a Commercial Lending Officer at the Bank of America. I submit this affidavit to bring to the Court's attention information concerning the origin and content of the "Golden Chain" documents.

2. Attached as Attachment A is a true and accurate copy of the Affidavit of Evan F. Kohlmann, including Exhibits 1 - 14 referenced therein, executed on October 18, 2004, and filed with this Court that same day in the matter of *In Re Terrorist Attacks on September 11, 2001*, MDL No. 1570 (RCC), docket # 505.

3. Attachment B is a true and accurate copy of a document presented as an exhibit to "Government's Evidentiary Proffer Supporting the Admissibility of Co-conspirator Statements" in *U.S. vs. Enaam M. Arnaout*, Case No. 02-CR-892, (U.S.D.C., Northern District of Illinois, Eastern Division) filed on January 29, 2003, bates numbers B0S000067 - B0S000074. The document was seized by the Bosnian police during searches of the offices of the Defendant Benevolence International Foundation in Sarajevo, Bosnia and Herzegovina in March 2002 and presented as evidence by the U.S. government in a criminal prosecution involving al Qaeda. This document consists of an Action Items list, and was found in a computer file labeled "Tareekh Osama," or "Osama History." The government exhibit contained both the original Arabic document and its English translation, both of which are attached as Attachment B.

4. Attachment C is a true and accurate copy of government Exhibit # 90, a copy of Osama bin Laden's signature, and the relevant transcript from the case in which it was admitted, *United States of America v. Usama Bin Laden, et al.*, S(7) 98 CR.1023, along with the testimony of Jamal Ahmed al-Fadl authenticating Osama bin Laden's signature on February 6, 2001.

5. Attached as Attachment D is a true and accurate copy of the Affidavit of Jean-Charles Brisard, including Exhibits 1 – 5 referenced therein, executed on October 15, 2004, and filed with this Court on October 18, 2004, in the matter of *In Re Terrorist Attacks on September 11, 2001*, MDL No. 1570 (RCC), docket # 505.

6. Attachment E is a true and accurate copy of a report dated August 2002 prepared by the Federal Bureau of Investigation discussing the materials seized in Bosnia with Defendant Jamal Ahmed Al Fadl.

7. Attachment F is a true and accurate copy of a confidential witness statement taken on October 26, 2004 in the matter of *In Re: September 11 Litigation*, 21 MC 97 (AKH).

8. Attachment G is a true and accurate copy of a document seized by the Bosnian police during searches of the offices of the Defendant Benevolence International Foundation in Sarajevo, Bosnia and Herzegovina in March 2002 and presented as an exhibit by the United States government in a criminal prosecution involving al Qaeda, bates numbers B0S000001 - B0S000003, and referred to as the "golden chain." The golden chain list was presented by the United States government as an exhibit in the Department of Justice's Government's Evidentiary Proffer Supporting the Admissibility of Co-conspirator Statements in the case of *U.S. vs. Enaam M. Arnaout*, Case No. 02-CR-892 (U.S.D.C., Northern District of Illinois, Eastern Division) filed on January 29, 2003. The list was also included in the Indictment of Defendant Enaam Arnaout on October 9, 2002. The golden chain document was found in a computer file labeled "Tareekh Osama," or "Osama History." The government exhibit contained both the original Arabic document and its English translation, both of which are attached as Attachment G.

9. Attachment H is a true and accurate copy of the U.S. Treasury Department Statement on the Designation of Wa'el Hamza Julidan dated September 6, 2002. The Treasury Department Designation Statement includes Mr. Julaidan's alias "Abu Al-Hasan al Madani" at page one and describes the basis for his designation as an al Qaeda terrorist supporter.

10. Attachment I is a true and accurate copy of a document presented as an exhibit to "Government's Evidentiary Proffer Supporting the Admissibility of Co-

conspirator Statements" in *U.S. vs. Enaam M. Arnaout*, Case No. 02-CR-892, (U.S.D.C., Northern District of Illinois, Eastern Division) filed on January 29, 2003, bates numbers B0S000153 - B0S000156. The document was seized by the Bosnian police during searches of the offices of the Defendant Benevolence International Foundation in Sarajevo, Bosnia and Herzegovina in March 2002 and presented as evidence by the U.S. government in a criminal prosecution involving al Qaeda. This document consists of a hand written note from Osama Bin Laden to Wa'el Jelaidan on Saudi Red Crescent stationery, and was found in a computer file labeled "Tareekh Osama," or "Osama History." The government exhibit contained both the original Arabic document and its English translation, both of which are attached as Attachment I.

11. Attachment J is a true and accurate copy of a document presented as an exhibit to "Government's Evidentiary Proffer Supporting the Admissibility of Co-conspirator Statements" in *U.S. vs. Enaam M. Arnaout*, Case No. 02-CR-892, (U.S.D.C., Northern District of Illinois, Eastern Division) filed on January 29, 2003, bates numbers B0S000093 - B0S000094. The document was seized by the Bosnian police during searches of the offices of the Defendant Benevolence International Foundation in Sarajevo, Bosnia and Herzegovina in March 2002 and presented as evidence by the U.S. government in a criminal prosecution involving al Qaeda. This document consists of an action list, and was found in a computer file labeled "Tareekh Osama," or "Osama History." The government exhibit contained both the original Arabic document and its English translation, both of which are attached as Attachment J.

12. Attachment K is a true and accurate copy of a document presented as an exhibit to "Government's Evidentiary Proffer Supporting the Admissibility of Co-

conspirator Statements" in *U.S. vs. Enaam M. Arnaout*, Case No. 02-CR-892, (U.S.D.C., Northern District of Illinois, Eastern Division) filed on January 29, 2003, bates numbers B0S000028 - B0S000052. The document was seized by the Bosnian police during searches of the offices of the Defendant Benevolence International Foundation in Sarajevo, Bosnia and Herzegovina in March 2002 and presented as evidence by the U.S. government in a criminal prosecution involving al Qaeda. This document consists of a memorandum detailing the resolution to a dispute between two relief organizations submitted to secret arbitration, and was found in a computer file labeled "Tareekh Osama," or "Osama History." The government exhibit contained both the original Arabic document and its English translation, both of which are attached as Attachment K.

13. Attachment L is a true and accurate copy of a document presented as an exhibit to "Government's Evidentiary Proffer Supporting the Admissibility of Co-conspirator Statements" in *U.S. vs. Enaam M. Arnaout*, Case No. 02-CR-892, (U.S.D.C., Northern District of Illinois, Eastern Division) filed on January 29, 2003, bates numbers B0S000053 - B0S000054. The document was seized by the Bosnian police during searches of the offices of the Defendant Benevolence International Foundation in Sarajevo, Bosnia and Herzegovina in March 2002 and presented as evidence by the U.S. government in a criminal prosecution involving al Qaeda. This document consists of a letter dated March 4, 1987 written by Osama bin Laden requesting funds, and was found in a computer file labeled "Tareekh Osama," or "Osama History." The government exhibit contained both the original Arabic document and its English translation, both of which are attached as Attachment L.

14. Attachment M is a true and accurate copy of a document presented as an

exhibit to "Government's Evidentiary Proffer Supporting the Admissibility of Co-conspirator Statements" in *U.S. vs. Enaam M. Arnaout*, Case No. 02-CR-892, (U.S.D.C., Northern District of Illinois, Eastern Division) filed on January 29, 2003, bates numbers B0S000089 - B0S000092. The document was seized by the Bosnian police during searches of the offices of the Defendant Benevolence International Foundation in Sarajevo, Bosnia and Herzegovina in March 2002 and presented as evidence by the U.S. government in a criminal prosecution involving al Qaeda. This document consists of the formation minutes of al Qaeda, and was found in a computer file labeled "Tareekh Osama," or "Osama History." The government exhibit contained both the original Arabic document and its English translation, both of which are attached as Attachment M.

15. Attachment N is a true and accurate copy of a document presented as an exhibit to "Government's Evidentiary Proffer Supporting the Admissibility of Co-conspirator Statements" in *U.S. vs. Enaam M. Arnaout*, Case No. 02-CR-892, (U.S.D.C., Northern District of Illinois, Eastern Division) filed on January 29, 2003, bates numbers B0S000020 - B0S000021. The document was seized by the Bosnian police during searches of the offices of the Defendant Benevolence International Foundation in Sarajevo, Bosnia and Herzegovina in March 2002 and presented as evidence by the U.S. government in a criminal prosecution involving al Qaeda. This document consists of a letter from Osama Bin Laden to Abu Rida calling for an attack on the Russians, and was found in a computer file labeled "Tareekh Osama," or "Osama History." The government exhibit contained both the original Arabic document and its English translation, both of which are attached as Attachment N.

16. Attachment O is a true and accurate photocopy enlargement of the

signature of Abdul Hasan al-Madani, aka Wael Jelaidan, found on the document with bates numbers BOS000028 – BOS000052.

17. Attachment P is a true and accurate photocopy enlargement of the signature of Defendant Wael Jelaidan from his Affidavit submitted in this matter.

18. Attachment Q. is a true and accurate copy of a document presented as an exhibit to "Government's Evidentiary Proffer Supporting the Admissibility of Co-conspirator Statements" in *U.S. vs. Enaam M. Arnaout*, Case No. 02-CR-892, (U.S.D.C., Northern District of Illinois, Eastern Division) filed on January 29, 2003, bates numbers B0S000055 - B0S000056. The document was seized by the Bosnian police during searches of the offices of the Defendant Benevolence International Foundation in Sarajevo, Bosnia and Herzegovina in March 2002 and presented as evidence by the U.S. government in a criminal prosecution involving al Qaeda. This document consists of a letter dated March 17, 1987 from Abu Muath al-Masri to Bayazid requesting travel arrangements and lodging for two individuals traveling to Yemen, and was found in a computer file labeled "Tareekh Osama," or "Osama History." The government exhibit contained both the original Arabic document and its English translation, both of which are attached as Attachment Q.

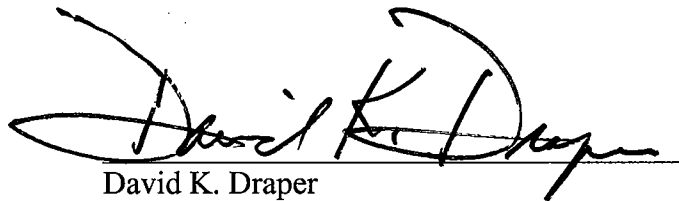
19. Attachment R is a true and accurate copy of an article entitled "Al-Qa'ida Magazine Debates Attacks in Saudi Arabia – Proposes More Attacks in the U.S. will Boost Support" as reported by *The Middle East Media Research Institute* in their *Special Dispatch Series No. 632* dated December 23, 2003. This article includes excerpts of interviews previously reported in *The Voice of Jihad* in October and December of 2003. This article can be found on the Internet at <http://memri.org/bin/opener.cgi?Page=>

archives&ID=SP63203.

20. Attachment S are true and accurate copies of the pages from the Final Report of the 9/11 Commission, July 22, 2004, that are referenced in Plaintiffs' Memorandum of Support of this Motion to Supplement Plaintiffs' Opposition to Motions to Dismiss.


21. Attachment T is a true and accurate copy of the pages from the Monograph on Terrorist Financing, Staff Report to the Commission that is referenced in Plaintiffs' Memorandum of Support of this Motion to Supplement Plaintiffs' Opposition to Motions to Dismiss.

22. Attachment U is a true and accurate copy of a press release from the United States Department of the Treasury dated December 21, 2004 (JS-2164) and entitled "U.S. Treasury Designates Two Individuals with Ties to al Qaida, UBL Former BIF Leader and al-Qaida Associate Named under E.O. 13224". This press release can be found on the Internet at <http://www.ustreas.gov/press/releases/js2164.htm>.



David K. Draper

Sworn to before me this
8th day of June 2005.



Colleen R. Hemelgarn
Notary Public for South Carolina
My Commission Expires
October 13, 2009